



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174771

PRELIMINARY RECITALS

Pursuant to a petition filed on June 4, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Clark County Department of Social Services regarding Medical Assistance (MA), a hearing was held on August 17, 2016, by telephone from Madison, Wisconsin.

The issue for determination is whether the petitioner is liable for an overpayment of MA benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Clark County Department of Social Services
Courthouse
517 Court Street, Rm. 502
Neillsville, WI 54456-0190

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner was the primary person in a three-person BadgerCare assistance group that included two minor children.

3. On October 19, 2015, Petitioner submitted an online renewal and reported new employment with [REDACTED] working 24 hour/week at \$26.90/hour. She submitted an employment verification form on November 2, 2015, indicating a weekly estimate of 20 hour/week at \$26.90/hour. The respondent determined that petitioner's monthly gross income would thus be \$2,152.00, which exceeds the Federal Poverty Level (FPL) for a group of 3, which is \$1,674/month.
4. On November 5, 2016, the respondent mailed petitioner written notice that, due to her monthly income, petitioner's children were approved, but petitioner was denied.
5. On November 16, 2015, petitioner called the respondent and reported pre-tax deductions. The respondent budgeted the deductions, but petitioner's household income was still at 106% of the FPL and [REDACTED] was told she was still denied BadgerCare for November. On that same date, petitioner again called the respondent and reported her job hours had decreased; petitioner submitted a new Employment verification form showing only 18 hours of weekly estimated hours. As a result, the respondent approved BagerCare for petitioner effective November 1, 2015.
6. On March 2, 2016 the respondent received State Wage matches for petitioner. Petitioner also submitted actual paystubs, as requested. Group income for her household was between 156% - 293% FPL from November, 2015 – February, 2016.
7. The respondent notified petitioner on April 29, 2016, that it had determined that she was overpaid MA benefits in the amount of \$3,114.00 during the period of November 1, 2015, through March 31, 2016. This was identified as Claim # [REDACTED]

DISCUSSION

The Department seeks to recover \$3,114.00 in BadgerCare Plus benefits paid on the petitioner's behalf from November, 2015, through March, 2015. BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Adults are ineligible if their household income exceeds the federal poverty level. Wis. Stat. § 49.471(4)(a). The department may recover any overpayment of BadgerCare Plus that occurs because of a "misstatement or omission of fact by a person supplying information in an application..." Wis. Stat. § 49.497(1). The misstatement or omission need not be fraudulent, i.e., intentional.

At hearing, the respondent proved by a preponderance of the evidence that an overpayment occurred because petitioner's income was not correctly reported, and therefore not correctly budgeted to determine the household's MA benefits.

At the hearing, petitioner contested that she did, in fact, properly report her income. She explained that she was scheduled for 18 hours per week, and could pick up extra shift if they became available. She took advantage of additional shifts often, and her paystubs for November show that petitioner worked 69 hours in the first two-week pay period of the month, and 57 hours in the second pay period. I note that in petitioner's request for hearing she wrote: "I was NOT informed that if I picked up extra shifts to make extra money that this would be held against me." Exhibit 1. However, I note that the November 5, 2015, notice to petitioner specifically instructed petitioner that, "...If your household's total monthly income (before taxes) goes over \$3,148.78, you must report it by the 10th day of the next month. ..." Exhibit 12. Petitioner did not timely report the income change, and as such her benefits were continued during a period in which she was not eligible. Accordingly, I conclude that petitioner was overissued \$3,114.00 of MA benefits which are subject to recovery.

CONCLUSIONS OF LAW

Petitioner was overissued \$3,114.00 of MA benefits which are subject to recovery.

NOW, THEREFORE, it is ORDERED

That the matter herein be and is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of September, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 23, 2016.

Clark County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability